

WILLIAMSBURG CITY COUNCIL
July 8, 2004
MINUTES

The Williamsburg City Council held its regular monthly meeting on July 8, 2004, at 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE

Present were Ms. Zeidler, Messrs. Scruggs, Chohany and Freiling. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist. Mr. Haulman was away on business.

Staff Attending: Department Heads Clayton, Hudson, Nester, Serra, Yost, Weiler, and Walentisch, and Assistant City Manager Miller.

CALL TO ORDER

Mayor Zeidler called the meeting to order.

COUNCIL MINUTES

Mr. Scruggs Moved that City Council Approve of the Minutes of June 7 and June 10, and Special Meeting of June 21, 2004. The Motion was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

PUBLIC HEARING

PCR #04-011: Request of HHHunt Corporation to amend the Zoning Ordinance to add nursing homes as a special use permit use in the LB-4 District, *Proposed Ordinance #04-14*

AND

PCR #04-012: Request of HHHunt Corporation for a special use permit for an 80-bed assisted living facility at 935 Capitol Landing Road.

Reference for these matters was Mr. Nester's report dated July 8, 2004. Mr. Nester reviewed the information provided in his report dated July 8, 2004. Using an overhead schematic layout, Mr. Nester identified the location of the proposed Spring Arbor assisted living facility. HHHunt Corporation is requesting a zoning text amendment and special use permit in order to construct an 80-bed, one-story structure, assisted living facility at 935 Capitol Landing Road. The eight-acre property is zoned LB-4, Limited Business Corridor District. The Comprehensive Plan designates the Capitol Landing Planning Area as Office Land Use, which provides for offices and financial institutions, with low intensity commercial uses with approval of a special use permit. The proposed use is not in the range of uses envisioned by the Comprehensive Plan. However, the assisted living project is a lower intensity use of this property.

Mr. Nester said that adding nursing homes as a special use permit would provide for transition in intensity between the B-2 and B-3 Districts and the single family residential areas to the north. The Comp Plan does not include residential uses or nursing home/assisted living type facilities in this area. The Plan recommends that this area be

reserved for uses of a higher intensity than the proposed facility, but of a lower intensity than the adjoining commercial area. For that reason, staff recommended that the Planning Commission deny the request. He noted that the Architectural Review Board has approved the conceptual plan for the facility with conditions.

Mr. Nester discussed the results of a Fiscal Impact Study, which reported an annual surplus with the assisted living facility use, but staff felt the cost of city services was somewhat underestimated in the study. The EMS services estimates also seemed low, and the demand for services will increase overall when the hospital relocates. He noted that there were no problematic traffic or environmental issues. The intersection at Merrimac Trail and Capitol Landing Road is satisfactory to handle the additional low volume of traffic generated by the facility. A left hand turn lane onto the property will be needed.

Mr. Nester was pleased that the applicant made improvements to the plan as the plan review progressed. This is a judgment call as to the outcome of this proposal. The Planning Commission held a public hearing on this request in June. The Commission recommended approval of the zoning text amendment and approval of the special use permit with contingencies. Mr. Nester reviewed the contingencies. He noted that representatives of the applicant were present.

Mr. Nester confirmed that the Zoning text amendment would apply to all districts zoned LB-4, about nine areas in the city.

Mayor Zeidler said that the public hearings on these two items would be heard together.

Mayor Zeidler opened the public hearing.

Vernon Geddy, Jr., representing HHHunt Corporation, provided Council with background information about HHHunt. They currently operate 17 facilities, and are good and active corporate citizens. This assisted living facility would be a good transitional use for this property. HHHunt likes to locate their facility near churches and daycare facilities. They are in agreement with the recommendation of the Planning Commission. There is no adverse impact on the area and the facility will generate a low volume of traffic. The left hand turn lane will be installed during the construction phase of the project. Mr. Geddy said that the concerns of the Brandywyne residents have been addressed and the majority of residents now support this request.

Mr. Geddy said this proposed use according to the fiscal impact statement, is comparable to an office development. After doing some research, the applicant found that most office development today is concentrated in either New Town or on Mooretown Road. Spring Arbor will be a good neighbor, will provide a much-needed service to the community, and will provide much needed jobs. He urged Council to follow the recommendation of the Planning Commission for approval.

Nanci Bond, 416 Suri Drive, read her comments regarding the proposed amendment to the Zoning Ordinance and request for a special use permit to allow an assisted living facility on Capitol Landing Road (see attached statement).

No one else wished to speak. The public hearing was closed.

Council members, Mr. Geddy, and Mr. Cook (representing HHHunt), discussed the impact, cost, and provision of emergency medical services to the facility.

Mr. Cook addressed the facility's interaction with the community. Their facilities traditionally offer the use of its dining and meeting spaces to organizations to foster relationships in the community, they work with charities in their specific locality, and are good corporate citizens. He added that they pay above average with a good benefit package in order to attract and retain employees.

Mr. Geddy and Council members talked about the lighting plan. Mr. Cook explained that carriage-type lighting fixtures will provide soft illumination, but will light sufficiently to provide a safe environs for residents and visitors. There are plans for a back-up generator for the facility in case of power outage, with hopes that the facility would be one of the first on line during an emergency situation.

Mr. Nester responded to Mr. Scruggs that many of Ms. Bond's concerns would be addressed by zoning, site plan review, and the ARB. Mr. Freiling and Mr. Nester discussed generated daily traffic for the assisted living facility in comparison to other various office uses. Chief Weiler and Mr. Chohany discussed projected emergency response calls to this type facility, and the turn around time when the Community Hospital moves to its new location. Chief Weiler confirmed that additional staff might be needed in the future to address overall needs. Mr. Tuttle added that the city has not considered charging for EMS calls, but had looked at reimbursement of transport calls should the patient's insurance reimburse for EMS costs.

Mr. Scruggs Moved That City Council Approve Proposed Ordinance #04-14, An Ordinance Amending Chapter 21, Zoning, by Revising Article III, Division 6.4, Limited Business Corridor District LB-4, to Allow Nursing Homes As a Special Use Permit and that City Council Approve the Request of HHHunt for a Special Use Permit to Locate an 80 Bed Assisted Living Facility at 935 Capitol Landing Road, subject to the Five Conditions Recommended by the Planning Commission As Follows:

- 1. The special use permit approves the plan titled "Schematic Layout, Spring Arbor of Williamsburg, April 20, 2004, last revised June 7, 2004," prepared by Draper Aden Associates.*
- 2. A left-turn lane shall be constructed in the median on northbound Capitol Landing Road to improve the geometry of turning movements into the property.*
- 3. A sidewalk shall be constructed along the entire frontage of the property.*
- 4. A back-up power generator, as detailed in the memo to Bo Cook from Allan Logan, dated May 27, 2004, shall be installed and operational prior to the issuance of a certificate of occupancy.*
- 5. The developer shall pay \$31,837 toward the upgrade of Sanitary Sewer Pump Station #4, as described in a letter to W.R. (Bo) Cook, Jr., from Dan Clayton, Director Public Works, dated May 24, 2004. Payment shall be received by the City prior to the issuance of land disturbing and building permits for this project.*

The Motion was Seconded by Mr. Chohany.

Mr. Scruggs recognized HHHunt Corporation for doing an admirable job of educating and communicating with neighbors in the area. He was sensitive to both the timing of the Comprehensive Plan, and to people's opinions. The Comprehensive Plan is a living document and needs to be revisited and revised at times. The assisted living facility is a better use for the community than other uses that would have been permitted.

Mayor Zeidler said that the Planning Commission is in the process of updating the Comp Plan, and she felt sure that they considered this when deliberating this request.

Mr. Freiling felt that this particular project offers a good transitional buffer in this area, and meets the goals stated in the Comp Plan for this district. This property could have been developed with a three-story office building or bank. During the evaluation of the Capitol Landing Road Corridor, it was important to the residents that the visual character of this area be maintained. This design accomplishes that. Two-thirds of other LB-4 districts contain medical offices and this is compatible. While he was concerned about the financial impact on the city, he wanted to keep the aesthetics of this corridor.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

(SEE ADOPTED ORDINANCE #04-13)

REPORTS

Monthly Financial Statement

The Monthly Financial Report was received and ordered filed.

Mr. Serra reviewed revenues and expenditures reported for the end of the fiscal year. He noted that all city departments finished the year under budget. City funds expended as a result of Hurricane Isabel were reimbursed by FEMA at a rate of 97.8%. He credited Vickie Herrick and city staff for their help. Overall the city has done well with revenues exceeding expenditures by \$1,165,000. He looked forward to another successful audit.

Monthly Departmental Operating Reports

The Monthly Departmental Operating Reports were received and ordered filed.

Richmond Road Project

Council members received a copy of a letter to Mr. Farmer at Hampton Roads Planning District Commission regarding the project. Mr. Nester reviewed the new estimated costs and funding sources for the Richmond Road improvement project (see attached). The new cost estimate was \$13,745,350, with \$12,291,942 in allocations, and a remaining \$1,453,408 needed in additional funding to continue and complete the project. The Transportation Technical Committee has endorsed the additional funding for the project and the Metropolitan Planning Organization is expected to approve the transfer of the additional money needed.

Mr. Tuttle said that the Mayor and he would attend the MPO meeting this month in anticipation of approval.

Mayor Zeidler thanked Mr. Nester and Mr. Clayton for their work.

Mr. Clayton verified that the work on underground utilities has been removed from the project and will be done at a much later time, perhaps ten years or more.

Jamestown Road/Route 199 Intersection

Mr. Clayton updated Council regarding certain aesthetic enhancements to this intersection. The chain link fence at the CVS corner will be removed; the fences at Peppertree Condos and the 7-11 Store corners will be replaced with black picket style fencing. The fence on the bank corner will be removed. Signal poles and signage will be of the same green as the city uses. The medians will have an exposed aggregate surface as opposed to concrete and some landscaping will be included. Costs will be split 50/50 with James City County. Work will begin in October and completed in March/April 2005. The project will include pedestrian crossings.

The Mayor commented that the city has struggled with this intersection for years. She recognized Ms. Nanci Bond for her efforts on this project. She was pleased that the city and county could work together in this regional effort.

City Manager Reports

Request to Amend the Membership of the Colonial Services Board, *Proposed Resolution #04-14*

Reference for this item was Mr. Tuttle's report dated June 29, 2004. Mr. Tuttle explained that the Colonial Services Board is recommending that the board's membership be changed to reflect the member jurisdictions' current proportional population. All members are being asked to approve this change. One member would be added to James City County. Mr. Tuttle recommended approval and noted that James City County adopted their resolution on June 22 affecting the change.

Mr. Chohany Moved that City Council Adopt Proposed Resolution #04-14, Resolution of Williamsburg City Council Amending the Membership of the Colonial Services Board. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

(SEE ADOPTED RESOLUTION #04-14)

Courthouse Maintenance Funds, *Proposed Resolution #04-15*

Reference for this item was Mr. Tuttle's report dated July 1, 2004. Mr. Tuttle explained that both the city and county governing bodies have to approve the use of courthouse maintenance funds. The County is requesting funds to purchase and install public access terminals at the office of the Clerk of the Circuit Court. Users will be able to access James City County tax and real estate information, as well as access all information on the city's web site via an Internet connection. Both localities will fund maintenance costs. Staff recommended adoption of the resolution.

Mr. Chohany Moved that City Council Approve Proposed Resolution #04-15, Appropriating Up to \$12,500 for Purchase of Public Access Terminals from the Courthouse Maintenance Fund. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

Residential Permit Parking Revisions, *Proposed Ordinances #04-15 and #04-16*

Reference for this item was Mr. Tuttle's report dated June 30, 2004. Mr. Tuttle explained that the parking permit regulations have been revised to reflect the recommendations of the Jamestown Road Area Parking and Traffic Study, citizens, and at Council's prior direction to revisit the cost of parking decals. Proposed Ordinance #04-15 amends the resident parking permit regulations and Proposed Ordinance #04-16 revises the fine structure. Mr. Tuttle provided an overview of the proposed ordinance revisions. Most notable were that the number of guest parking permits will be reduced from three to two, and will include the address to which they are issued. The ten-day guest-parking permit will be eliminated, the parking permit fee will increase from \$2.00 to \$5.00, and decals will now be displayed on the rear bumper. Proposed Ordinance #04-15 reflects the payment of fines, including the increase from \$10.00 to \$25.00 for violation of parking time limits.

Mr. Tuttle said that the graduated fine system is applied in timed parking areas downtown and not in neighborhoods. It is more difficult for the police to administer the fine system in neighborhoods because they do not have the TickeTrak computers.

Responding to Mr. Scruggs about the proposed ordinance, Mr. Phillips said that a Class 3 Misdemeanor carries a fine of up to \$500.00. Mr. Scruggs was not comfortable with this amount for a simple violation. Mr. Phillips said this was not a change of law. The General District Court would determine the amount of fine from \$0 to \$500.

Following a brief discussion regarding the number of guest passes to be issued, Council members concurred to leave the number at three (3) guest passes, not two (2) as recommended in the proposed ordinance.

Mr. Tuttle said that the city will work on a student information packet, similar to the new resident packet, and will include these parking revisions. Mr. Serra noted that the Finance Department also provides this information to residents as they sell the permits. Mr. Freiling suggested it would be helpful to provide this information to college students during orientation.

Mr. Chohany Moved That City Council Approve Proposed Ordinance \$04-15, An Ordinance to Amend and Restate Division 5 of Article VI of Chapter 11 of the Williamsburg Code, With Amendment to Section 11-243 (b) deleting the reference to Two (2) Guest Parking Permits and Inserting Three (3) Guest Parking Permits, and that Council Approve Proposed Ordinance #04-16, An Ordinance to Amend and Restate Section 11-162 "Payment of Fines" of Division 2 "Administration" of Article VI of Chapter 11 "Motor Vehicles and Traffic" of the Williamsburg Code and to Delete Section 11-164 of Said Division. The Motion was Second by Mr. Scruggs.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

(SEE ADOPTED ORDINANCES #04-15 AND #04-16)

Downtown Parking Update—Verbal Report

Mr. Tuttle updated Council on the downtown parking system using a series of overhead transparencies. He reviewed the downtown parking system, including the location of parking, time limits, and costs. Much thought has gone into the gateway, trailblazer, and entrance signs to effectively direct parking. Staff has considered adding the cost of parking on the signs. He provided Council with an update on the use of the Prince George parking garage and monthly revenues.

Mr. Tuttle addressed the graduated fine system that has been in place since the first of the year and seems to be working well. The police department is responsible for enforcement of downtown parking, including the garage. The parking system is working to provide convenient parking downtown for customers.

Council members were encouraged by the report. A suggestion was made that the city logo on the parking signs be enlarged.

Mr. Nester verified that the number of handicapped parking spaces in each parking area meets or exceeds the number required by the Americans with Disabilities Act and Building Code.

City Attorney Report

Amendments to the City Code to Reflect Changes in State Code, *Proposed Ordinances #04-17, #04-18, #04-19, #04-20*

Reference for this item was Mr. Phillips memorandum dated June 30, 2004, outlining the four ordinance amendments to the City Code that reflect changes made to the Code of Virginia by the 2003/04 General Assembly.

Mr. Phillips reviewed the details of the proposed ordinance amendments:

#04-17 regarding Motor Vehicles and Traffic, which would allow the City to seek recovery of various emergency response expenses arising out of various motor vehicle violations;

#04-18 Courthouse, Court Security and Jail Processing Fees, removing a July 1 sunset provision and amended the purposes for which the monies can be applied;

#04-19 Nuisances, which allows the City to place a lien on property to cover nuisance abatement costs incurred by the City; and

#04-20 Bad Check Charges, which provides for a bad check fee of \$35.00. Mr. Phillips recommended that Council adopt the proposed ordinances. He suggested that Council adopt the proposed ordinances individually.

Mr. Scruggs Moved That City Council Adopt Proposed Ordinance #04-17, An Ordinance to Amend and Reordain Chapter 11, Motor Vehicles and Traffic, of the Williamsburg Code by Adding Section 11-37, Reimbursement of Response Expenses. The Motion was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

Mr. Scruggs Moved that City Council Adopt Proposed Ordinance #04-18, An Ordinance to Amend and Reordain Chapter 2, Administration, of the Williamsburg Code by Amending Paragraph (b) of Section 2-3, Courthouse, Court Security, and Jail Processing Fees. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

Mr. Scruggs Moved That City Council Adopt Proposed Ordinance #04-19, An Ordinance to Amend and Reordain Chapter 12, Nuisances, of the Williamsburg Code by Amending Section 12-26, Nuisances Prohibited Within City, and Paragraph (a) of Section 12-50, Recourse of City When Notice to Abate Nuisance is Ignored. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

Mr. Chohany Moved That City Council Adopt Proposed Ordinance #04-20, An Ordinance to Amend and Reordain Chapter 2, Administration, of the Williamsburg Code by Adding Section 2-2221, Bad Check Charges. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None (SEE ADOPTED ORDINANCES #04-16, #04-17, #04-18, #04-19)

NEW BUSINESS

Appointments to Hampton Roads Planning District Commission

Mr. Scruggs Moved that City Council Appoint Mayor Jeanne Zeidler to the Hampton Roads Planning District Commission for a Two-Year Term Effective July 1, 2004, to Expire June 30, 2006, and that City Council Appoint Jackson C. Tuttle to the Hampton Roads Planning District Commission and to the HRPDC Executive Committee for a Two-Year Term Effective July 1, 2004 to Expire June 30, 2006. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

Mayor Zeidler announced that Council members serve on various boards and committees in addition to their Council duties. She reviewed the list noting the Council representative (see list attached). Mayor Zeidler noted that Council will soon have a representative to the Industrial Development Authority, and that the position will be defined in the coming months.

Schedule of Meetings for July: Mr. Tuttle reminded Council of the Departmental Orientation Sessions for Council members to be held July 27 and 28. On July 14-16, new Council

members will attend the VML Conference for Newly Elected Municipal Officials in Charlottesville.

OPEN FORUM

Mayor Zeidler invited comments.

Mr. Ron Steffey addressed Council about the "Yield" sign at ByPass Road and Capitol Landing Road. The sign is not effective and he has witnessed near accidents several times. He suggested the sign be changed to a "STOP" sign. He also spoke about the parking problems on Prince George Street between Armistead Avenue and Boundary Street. Students abuse the parking in this block. Signage is needed to stop the abuse.

Mayor Zeidler suggested the parking enforcement personnel address this problem.

No one else wished to speak. The session was closed.

CLOSED SESSION

Mr. Scruggs Moved that City Council go into Closed Session pursuant to Section 2.2-3711 of the Code of Virginia for the purpose of discussing one personnel matter per subparagraph 1 concerning appointments to Boards and Commissions, and one legal matter per subparagraph 7 for the purpose of consultation of specific legal matters requiring the provision of legal advice by council concerning legal consulting services. The Motion Was Seconded by Mr. Freiling.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

The meeting adjourned at 4:43 p.m.

The Mayor called a five-minute recess.

At 5:20 p.m., Council met in Open Session.

Mr. Scruggs Moved the Certification of Closed Meeting. The Motion was Seconded by Mr. Chohany.

Recorded Vote on the Motion:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

CERTIFICATION OF CLOSED MEETING

Date: July 8, 2004

Motion: Mr. Scruggs

Second: Mr. Freiling

WHEREAS, the City Council of the City of Williamsburg has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the City Council that such meeting was conducted in conformity with Virginia Law.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Williamsburg hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the City of Williamsburg.

VOTE:

Aye: Freiling, Scruggs, Zeidler, Chohany

No: None

Absent During Vote: Mr. Haulman

Absent During Meeting: Mr. Haulman

The meeting adjourned at 5:21 p.m.

Approved: August 12, 2004

Shelia Y. Crist
Clerk of Council

Jeanne Zeidler
Mayor